PENNSYLVANIA CREDIT UNION ASSOCIATION

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April 13, 2010

Ms. Jennifer L. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Sent Via Email

RE: Proposed Rulemaking – Regulation Z; Docket No. R-1384

Dear Ms. Johnson:

The Pennsylvania Credit Union Association (PCUA) appreciates this opportunity to provide comments to the Board of Governors of the Federal Reserve (Board) on its third and final set of proposed rules implementing the provisions of the Credit Card Accountability, Responsibility and Disclosure Act of 2009 (CARD Act).

As a matter of background, the PCUA is a statewide trade association that represents the majority of the approximate 553 credit unions located within the Commonwealth of Pennsylvania.

The PCUA consulted with its Regulatory Review Committee (the Committee) in order to provide comments to this proposed rule. The Committee consists of twelve (12) credit union CEOs who lead the management teams of Pennsylvania's federal and state-chartered credit unions. Members of the Committee also represent credit unions of all asset sizes.

Comments regarding the operational challenges presented by the proposal were also provided by the management team of Pacul Services, Inc., Card Services, which is the for-profit affiliate of PCUA.

The comments contained in this letter reflect the input of the Committee and PCUA staff.

Background and Overview:

As a general matter, the Committee and our member credit unions support the improved consumer protection provisions included in the CARD Act and the related implementing regulations. As non profit financial institutions that are member owned, credit unions have always strived to provide fair and reasonably priced, wealth building financial products and services to their members. As noted in previous comment letters:

- Credit Cards offered by credit unions do not generally include the anti-consumer features and practices targeted by the CARD Act and in the regulations.
- Credit unions continue to be recognized by consumer advocates and credible financial advisors as pro-consumer financial institutions. Credit Unions have found that they benefit when consumers are fully informed and understand the rates and terms of the credit card offers they receive.

It is important to note and caution, however, that each of the revisions or amendments to regulation Z have resulted in additional costs to the credit unions and their members.

In attempting to address the anti-consumer features and practices of other credit card providers, most of which are for-profit entities, through the passage of the CARD Act and the proposed implementing regulations, Congress and the Board are requiring credit unions to employ practices, processes and procedures that are more complex and complicated than necessary.

We continue to submit that the "one size fits all approach" to open-end lending regulation has run its course. Even though credit unions have begun implementing the changes required under the new regulations, it continues to be our position that the NCUA should retain the authority to promulgate and enforce the regulations under the Truth in Lending and CARD Acts for credit unions. This would allow NCUA to tailor the regulations to address the open-end lending products and services, including credit card products that are offered by credit unions.

Notwithstanding our continued support of new and improved consumer protections that eliminate abusive lending practices, we are compelled to raise some specific operational challenges that are presented under the current proposal:

***Operational Challenges*:**

1) Selecting the penalty fee – The proposal provides three alternatives for determining the amount of penalty fees that may be charged by card issuers: i) fees based on costs; ii) fees based on deterrence; iii) "safe harbor" fees.

It will be difficult for a subset of credit unions, generally those credit unions that are less than $50 million in total asset size, to utilize the first alternative, which allows lenders to determine their fees based on their costs. In many cases, the analysis necessarily to associate expenses with fees that are being charged can be time consuming and complex.

The safe harbor option appears to be the easiest for those credit unions to follow. However, depending upon the fee amounts that are set, there is a concern that credit unions will be unable to recoup costs from the specific members that cause losses to the credit unions, which in turn, will result in higher priced credit and lower savings rates to the general membership.

Again, extra cost will be involved in creating systems to accommodate different fee structures that are dependent upon a transaction.

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2) **Ban on inactivity fee** – The proposal bans inactivity fees or fees for closing and terminating members' accounts. Philosophically, credit unions do not prefer charges such as inactivity fees. As credit unions strive to provide value to members, they have historically declined to charge junk fees, which are typically charges designed to improve the profitability of a particular financial product.

Crucial, however, is that future regulations recognize the expenses associated with offering plastic cards. We have an emerging fear of price controls embedded in consumer protection regulation. As noted above, to the extent credit unions are unable to recoup costs from specific members, the general membership suffers when the credit union is forced to increase rates and fees on loans and lower the interest rates it pays on deposits.

3) **Additional Subsequent Disclosure Requirements** – Credit unions have been incurring expenses to revise and reissue disclosures and are in the full swing getting the new disclosures to members. The cost of revising disclosures continues to be an issue in our current economic environment as credit unions will again need to change disclosures in August. Unfortunately, this is occurring during a time when credit unions have been budgeting to decrease their expenses in order to preserve their capital and liquidity levels so that they can continue to lend to their members.

4) **45 day notice** – Upon passage of this regulation, it appears that the 45 day notices will need to be changed for the third time due to the requirement that a specific reason be included as to why a rate was increased. Many credit unions have automated the creation of correspondence through vendors so that the appropriate letters are generated when an account triggers a rate increase. Revising the verbiage of these letters causes more fees and expenses to credit unions.

5) **Re-evaluation of interest rate** – The proposal requires card issuers that have increased rates since January 1, 2009, to review these increases every six months and to reduce the rate if the reasons for the increase no longer apply.

Reviewing accounts every six months if the rate has been increased is good in theory. But to expect issuers to go back to January 1, 2009, is nearly impossible for most credit unions. In most cases, there is no reporting or systematic way for credit unions to identify what accounts have had a rate increase, much less going back twenty months prior. The proposal also requires that the account be reviewed indefinitely, every six months, unless the rate is restored to the original rate. A time limit for the review process should be imposed. Issuers will always have customers that do not qualify for the best available rate. The proposal makes these accounts more expensive by requiring the issuer to continue to review them every six months, again causing increase cost to the general membership.

6) **Vendor Issues** – Overall, vendors will need to make changes again. The changes they made to comply with the new regulations at the beginning of the year will now have to be revised. This is concerning, because, in most cases, new fees have been added for credit unions due to the vendor's expenses with complying. The new changes will likely result in additional or increased fees.

7) <u>Timeframes</u> – Throughout the proposal, it indicates that fee and rate changes will need to be implemented within thirty days of the review. Based upon our experience, this is not possible today. The implementation timeframe is at least three weeks for fee changes and four weeks for rate changes. That is assuming they have no backlog and can process the request immediately.

Thank you again for this opportunity to provide comments. Please feel free to contact me or any of the PCUA staff at 1-800-932-0661 if you have any questions or if you would like to discuss the contents of this letter.

Sincerely,

PENNSYLVANIA CREDIT UNION ASSOCIATION

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cc: NCUA Board Members
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